

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 26TH DAY OF JUNE 2015/5TH ASHADHA, 1937

WP(C).No. 37331 of 2009 (J)

PETITIONER :

NAYANAR CHILDREN'S HOMES' SOCIETY,
A SOCIETY REGISTERED UNDER THE SOCIETIES REGISTRATION ACT
HAVING ITS REGISTERED OFFICE AT ERANHIPALAM, KOZHIKODE
AND REPRESENTED BY ITS HONORARY SECRETARY
MRS.REMA RAMANKUTTY MENON,
W/O LATE ADV. RAMANKUTTY MENON, AGED 60 YEARS.

BY ADVS.SMT.C.DEVIKA RANI KAIMAL
SRI.N.M.MADHU

RESPONDENT(S) :

1. STATE OF KERALA
REP. BY ITS SECRETARY TO THE DEPARTMENT OF REVENUE,
GOVERNMENT SECRETARIATE, THIRUVANANTHAPURAM.
2. THE DISTRICT COLLECTOR,
COLLECTORATE, KOZHIKODE.
3. THE DISTRICT REGISTRAR,
KOZHIKODE.
4. APOLLO BUILD TECH (INDIA) PVT. LTD.,
A COMPANY REGISTERED UNDER THE INDIAN COMPANIES ACT
HAVING ITS REGISTERED OFFICE AT KOTTOOLI
KOZHIKODE, REPRESENTED BY ITS MANAGING DIRECTOR
MR.ABDUL RASHEED.

*ADDL.R5 IMPEADED

*ADDL.R5. KRISHNA JANAKI
W/O.LATE KAPPANA MURALEEDHARAN, 7 S1
CHINTHAVALAPPU FLATS, RAM MOHAN ROAD,
KOZHIKODE.

*ADDL.R5 IS IMPEADED AS PER ORDER DATED 26.06.2015 IN IA 6921/14.

R1 TO R3 BY GOVT. PLEADER SRI. K.M. ABDUL KHADER
R4 BY SENIOR ADVOCATE SRI.T.KRISHNAN UNNI
BY ADVS. SRI.SAJU.S.A
SRI.P.S.ABDUL KAREEM
ADDL.R5 BY ADV. SRI.T.K.VIPINDAS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

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| EXT.P1 | PHOTOCOPY OF THE MEMORANDUM OF ASSOCIATION AND RULES & REGULATIONS OF THE SOCIETY. |
| EXT.P2 | PHOTOCOPY OF THE JUDGMENT DATED 5.11.83 IN AS 94 OF 1979. |
| EXT.P3 | PHOTOCOPY OF THE JUDGMENT DATED 8.11.90 IN SA 463/84. |
| EXT.P4 | PHOTOCOPY OF THE SALE DEED DATED 7.2.81. |
| EXT.P5 | PHOTOCOPY OF THE SURRENDER DEED DATED 10.2.81. |
| EXT.P6 | PHOTOCOPY OF THE COMMON JUDGMENT DATED 28.1.2005. |
| EXT.P7 | PHOTOCOPY OF THE STATEMENT FILED BY THE DEFENDANT. |
| EXT.P8 | PHOTOCOPY OF THE AGREEMENT DATED 11.8.2008. |
| EXT.P9 | PHOTOCOPY OF THE REPLY RECEIVED BY THE 3RD REPENDENT. |
| EXT.P10 | PHOTOCOPY OF THE REPORT OF THE COMMITTEE CONSTITUTED BY THE HON'BLE CHIEF MINISTER IN 'SUTHARYA KERALAM' PROGRAM. |
| EXT.P11 | PHOTOCOPY OF SOME PAGES OF THE VISITORS BOOK. |
| EXT.P12 | PHOTOCOPY OF SOME PAGES OF THE MINUTES BOOK FOR THE PERIOD FROM JUNE 2001 TILL DATE. |
| EXT.P13 | PHOTOCOPY OF THE HINDU NEWSPAPER REPORT DATED 3.11.1996. |
| EXT.P13(a) | PHOTOCOPY OF THE INDAIN EXPRESS NEWSPAPER REPORT DATED 3.11.1996. |
| EXT.P13(b) | PHOTOCOPY OF THE CHANDRIKA MALAYALAM REPORT DATED 3.11.1996. |

(Contd...)

EXT.P13(c) PHOTOCOPY OF THE DESHABHIMANI MALAYALAM DAILY REPORT
DATED 3.11.1996.

EXT.P14 COPY OF THE DETAILED LIST OF THE RECORDS MAINTAINED AND
KEPT BY THE PETITIONER SOCIETY.

RESPONDENT'S EXHIBITS :

EXT.R2(a) : COPY OF THE AGREEMENT.

EXT.R2(b) COPY OF THE AGREEMENT DATED 6-4-2006.

EXT.R2(c) COPY OF THE POWER OF ATTORNEY DEED DATED 9.10.2006.

EXT.R2(d) COPY OF THE REPORT OF THE COMMITTEE.

//TRUE COPY//

P.A. TO JUDGE

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K. VINOD CHANDRAN, J.

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Dated this the 26th day of June, 2015

J U D G M E N T

The petitioner is aggrieved with an alleged order passed by the District Collector prohibiting sale of the petitioner's property and a recommendation made by a Committee allegedly constituted on the basis of a complaint received by the Chief Minister, to take over the properties of the petitioner Society. The petitioner is a Society registered under the Societies Registration Act, 1860. The petitioner asserts that they were never issued with any notice by the District Collector or by the Committee who is said to have enquired into their activities.

2. The petitioner but, admits that due to some financial strain, the petitioner had intended to sell a portion of the Societies property. The 4th respondent had approached the

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petitioner for purchasing the property and it was on his query under the Right to Information Act that Ext.P9 was issued which revealed the order of the Collector and the constitution of the Committee which is earlier referred to.

3. I have heard the learned Counsel appearing for the petitioner, the learned Government Pleader as also the learned Senior Counsel appearing for the 4th respondent.

4. The learned Counsel for the petitioner now submits that at present the society is functioning well and there could be no action taken according to the earlier decision of the Committee. It is also submitted by the petitioner that the District Collector, the authority under the Society Registration Act does not have any power to make such a prohibitory order or to take over the properties of the Society. In any event as revealed from Ext.P9, the communication is of the year 2008 and the decision prior to that. On admission of the writ petition there was an

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interim order granted restricting the take over of the property but however interdicting the petitioner from alienating the property also.

5. In such circumstance, it is only proper that the District Collector at present consider the issue in the present perspective as also the issue of whether the District Collector has any such powers under the Act. The petitioner shall appear before the office of the District Collector on 14.07.2015 on which date the petitioner shall be given a date of hearing and the matter shall be settled within a period of three months from the date of hearing.

The writ petition is disposed of.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

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P.A to Judge.